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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

ANIBAL RODRIGUEZ, SAL
 CATALDO, JULIAN
 SANTIAGO, and SUSAN LYNN
 HARVEY, individually and on behalf of all
 others similarly situated,

Plaintiffs,

v.

GOOGLE LLC,

Defendant.

Case No.: 3:20-cv-04688-RS

**PLAINTIFFS' MOTION IN LIMINE NO.
 10 TO PRECLUDE GOOGLE FROM
 CALLING REBUTTAL EXPERT DONNA
 L. HOFFMAN**

Judge: Hon. Richard Seeborg

Date:

Time:

Location:

1 In an effort to move things along, Plaintiffs have informed Google that neither Professor
2 Schneier nor Mr. Keegan will testify in Plaintiffs’ case in chief. Google has said it will call
3 Professor Hoffman in its case in chief. Professor Hoffman is one of Google’s expert witnesses
4 who was solely retained to rebut Professor Schneier’s expert testimony, and like all of Google’s
5 retained experts did not file a timely initial report nor offer any affirmative opinions in this case.

6 Google engaged Professor Hoffman solely as a rebuttal expert, “to respond to portions of
7 the report of Plaintiffs’ expert Bruce Schneier as they relate to Google’s disclosures, practices,
8 and user interface (UI) design” ECF 340-17 at 5, ¶ 16.

9 “Federal Rule of Civil Procedure 26(a) allows rebuttal expert testimony that is ‘intended
10 solely to contradict or rebut evidence on the same subject matter identified’ by a party’s initial
11 expert witness.” *Cook v. Cnty. of Los Angeles*, 2022 WL 1470574, at *3 (C.D. Cal. Mar. 21,
12 2022) (quoting Fed. R. Civ. P. 26(a)(2)(D)(ii)).

13 It is well-settled that a party is “limited to using its rebuttal experts for just that—
14 rebuttal—and may not call upon them to testify in its case-in-chief.” *Palm Capital, LLC v.*
15 *Travelers Prop. Cas. Co. of Am.*, 2017 WL 5665010, at *2 (C.D. Cal. Apr. 3, 2017); *Panchenko*
16 *v. Comenity Cap. Bank*, 2025 WL 2372597, at *3 (N.D. Cal. Aug. 13, 2025) (same).

17 District courts have repeatedly held that a party’s rebuttal experts are foreclosed from
18 testifying at trial if the opposing party decides not to present testimony from the corresponding
19 expert during the opposing party’s case in chief. *See, e.g., Ellis v. Corizon, Inc.*, 2018 WL
20 6268199, at *5 (D. Idaho Nov. 30, 2018); *see also Alsadi v. Intel Corp.*, 2019 WL 4849482, at
21 *12 (D. Ariz. Sept. 30, 2019) (collecting cases); *Sharma v. City of Vancouver*, 2008 WL
22 11343467, at *2 (W.D. Wash. June 17, 2008); *Int’l Bus. Machs. Corp. v. Fasco Indus., Inc.*, 1995
23 WL 115421, at *3 (N.D. Cal. Mar. 15, 1995) (“a party can control the scope of the testimony of
24 its adversary’s rebuttal experts by limiting its own experts’ testimony”).

25 As Professor Schneier will not testify at trial, neither may Professor Hoffman testify at
26 trial, and Google should be precluded from calling her as a witness in its case in chief.

1 Dated: August 25, 2025

By /s/ Mark C. Mao

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